

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER MARSHALL,
aka ALEXANDER BAILEY

Plaintiff,

No. C 12-0977 YGR (PR)

**ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND**

v.

CALIFORNIA SUPREME COURT,
U.S. ATTORNEY, U.S. MARSHALS
OFFICE,

Defendants.

INTRODUCTION

This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

DISCUSSION

A. Standard of Review

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may

1 be granted or seek monetary relief from a defendant who is immune from such relief. *See id.*
2 § 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica*
3 *Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

4 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim
5 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009)
6 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial
7 plausibility when the plaintiff pleads factual content that allows the court to draw the
8 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting
9 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions
10 cast in the form of factual allegations if those conclusions cannot reasonably be drawn from
11 the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).
12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
13 (1) that a right secured by the Constitution or laws of the United States was violated, and
14 (2) that the alleged violation was committed by a person acting under the color of state law.
15 *See West v. Atkins*, 487 U.S. 42, 48 (1988).

16 **B. Legal Claims**

17 Plaintiff’s complaint is difficult to read and often incoherent, and does not contain
18 sufficient factual matter to state a claim that is plausible on its face. In it, he alleges that
19 defendants are denying him access to his sealed juvenile records, a deprivation that prevents
20 him from accessing his “endowment.” Plaintiff fails to provide sufficient details regarding
21 the nature of this endowment, and why he has rights to it. He also fails to provide sufficient
22 details (times, dates, persons involved) regarding his attempts to access his records, and
23 whether and or to what extent he has exhausted whatever administrative procedures are
24 available.

25 Accordingly, the complaint is DISMISSED with leave to amend. Plaintiff shall file an
26 amended complaint addressing the deficiencies detailed above within 30 days from the date
27 this order is filed. The first amended complaint must include the caption and civil case
28

1 number used in this order (12-0977 YGR (PR)) and the words FIRST AMENDED
2 COMPLAINT on the first page. Because an amended complaint completely replaces the
3 previous complaints, plaintiff must include in his first amended complaint *all* the claims he
4 wishes to present and *all* of the defendants he wishes to sue. *See Ferdik v. Bonzelet*, 963
5 F.2d 1258, 1262 (9th Cir. 1992). Plaintiff may *not* incorporate material from the prior
6 complaint by reference. Failure to file an amended complaint in accordance with this order
7 will result in dismissal of this action without further notice to plaintiff.

8 It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court
9 informed of any change of address by filing a separate paper with the clerk headed "Notice
10 of Change of Address." He must comply with the Court's orders in a timely fashion or ask
11 for an extension of time to do so. Failure to comply may result in the dismissal of this action
12 pursuant to Federal Rule of Civil Procedure 41(b).

13 **IT IS SO ORDERED.**

14 DATED: October 25, 2012



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE